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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 April 2000, at 10 a.m.

Chairperson: Mr. SIMKHADA (Nepal)

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GE.00-12978 (E)

The meeting was called to order at 10.05 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/2000/11 and 117)

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), introducing the report on the activities of her Office in Colombia (E/CN.4/2000/11), said that the already grave human rights situation in Colombia was deteriorating. While the challenge of re-establishing peace in the face of insurrection, paramilitary formations, widespread lawlessness and drug trafficking was a daunting one, she encouraged the Government to strive for the restoration of peace with respect for human rights.

2. The international community must insist that all parties cooperate in the search for peaceful solutions through negotiations based on respect for human rights, including economic, social and cultural rights, and for humanitarian law, and should condemn those that did not.

3. Since the report was issued, the Office for Internal Oversight Services had published its evaluation of the Colombia Office. Its findings showed, inter alia, that the Office was widely recognized as rendering valuable service in a difficult situation; that it had succeeded in communicating its presence throughout Colombian society; that it was well run and well administered; that it could extend its activities to parts of Colombia not yet covered owing to lack of staff; and that constructive and useful cooperation was taking place between the Office and government departments.

4. During 1999, Colombia, under President Pastrana's leadership and commitment, had persevered in its search for a political solution to the internal armed conflict. She urged all parties to redouble their efforts to find a comprehensive agreement based on respect for international human rights and humanitarian law.

5. The deterioration in the human rights situation could be seen in the increasing number of allegations of extrajudicial executions, death threats, torture and enforced disappearances. The violations were attributed in most cases to paramilitary groups, but complaints had also been made against members of the armed forces and the police. There was an urgent need to address the problem of impunity.

6. Colombia had one of the largest populations of displaced persons in the world, a vast problem that had been recognized by the Commission and the Colombian Government. Even the measures adopted following the visit of the Representative of the Secretary-General on internally displaced persons had not prevented or reduced the phenomenon or provided adequate protection and assistance to the internally displaced.

7. Kidnapping, or "hostage-taking", by guerrilla groups had escalated, the chief victims being civilians and, increasingly, minors. The civilian population was increasingly also subject to indiscriminate attacks by guerrilla and paramilitary groups.

8. She welcomed the Government's decision to remove under 18-year-olds from the ranks; she deplored, however, the guerrilla groups' continuing recruitment of children to participate in

hostilities. She urged the authorities to act firmly to put an end to human rights violations by members of paramilitary groups and to establish appropriate new bodies so as to bring those responsible to justice. She also invited the Commission to urge the Colombian authorities to speed up the implementation of the international recommendations.

9. President Pastrana's "Policy for the promotion, respect and guarantee of human rights and application of international humanitarian law" was a valuable foundation for a response to the crisis. Her Office in Colombia was assisting the Office of the Vice-President in designing a national human rights action plan, in compliance with the Vienna Declaration.

10. Lastly, she expressed her thanks to the Governments that had made financial contributions to the Office in Colombia and invited them to renew and, if possible, increase their political and financial commitment.

11. Mr. REYES RODRIGUEZ (Colombia) said that his Government wished to reaffirm the importance it attached to the work of the OHCHR Office in Colombia. The renewal of the Agreement until April 2002 was an indication of that commitment.

12. Introducing his Government's reply to the High Commissioner's report (E/CN.4/2000/117), he said that it was in full agreement with the priorities and main concerns expressed therein. They were the basis for Colombia's "Policy for the promotion, respect and guarantee of human rights and application of international humanitarian law". The report was clearly intended as a contribution to the analysis of the situation and to the establishment of a basis from which to address the most serious problems affecting Colombians.

13. Nevertheless, certain aspects of the report did not accurately reflect the true situation. He drew attention in particular to the enormous amount of political will that had been needed to build confidence between all the parties in order to set the negotiation process in motion. He welcomed the High Commissioner's recognition of that in her introduction to the report.

14. At the recent Ministerial Meeting of the Movement of Non-Aligned Countries, the President of Colombia had stated that international humanitarian law was a fundamental factor in ensuring the continuation of the peace process. The Government's main aim was to promote the humanization of the internal conflict while attempting to stop it completely. None of the participants in the armed conflict was exempt from the obligation to observe international humanitarian law.

15. Like the armed conflict, the huge problem of drugs was a major structural factor in the situation in the country and, as the international community was certainly aware, had played a tragic role in the disruption of everyday life.

16. With regard to self-defence groups, he emphasized that the Government's policy was to fight them with all the means at its disposal. The Government strongly rejected any attempts to lay responsibility for their actions at its door. Any collaboration, acquiescence or tolerance of the activities of the self-defence groups on the part of State officials formed no part of any institutional or departmental policy.

17. Lastly, he outlined some of the most important steps the Government had taken in the last year in the search for a solution to the many problems faced: substantial progress had been made in the peace process; Colombia had actively participated in work on the draft optional protocols to the Convention on the Rights of the Child; it had initiated the agreement signed with the Office of the United Nations High Commissioner for Refugees (UNHCR) on assistance to internally displaced persons; it had ratified the Ottawa Convention on anti-personnel landmines; a national centre had been established to coordinate action against the self-defence groups; the Ministry for Internal Affairs witness protection programme had been allocated significant funds; the Economic and Social Policy Council had devised and approved a plan of action for the prevention of enforced displacement and some US$ 7 million had been spent on support activities for displaced persons. Moreover, in 1999, the Colombian Institute for Agrarian Reform had acquired US$ 3 million-worth of land for distribution to 400 displaced families.

18. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union and of the associated countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, said that the Union welcomed the Colombian Government's readiness to give priority to the promotion and protection of human rights and its legal initiatives such as the reform of the military Penal Code, but urged it to ensure that such measures complied with international requirements and Colombian constitutional jurisprudence and to do more in terms of policy implementation. In particular the Union urged that the law on enforced disappearances be adopted without delay, that judicial and administrative steps be taken with regard to bodies or individuals suspected of collaborating with paramilitary groups, and that protection for human rights defenders and witnesses be strengthened.

19. The Union fully supported the Government's efforts to engage in peace talks with the guerrillas. The success of the peace plan was crucial to the improvement of the human rights and humanitarian situations and should be supported by all segments of society, including all the parties to the conflict.

20. The Union strongly condemned the atrocities and gross violations of international humanitarian law by paramilitary groups and guerrilla groups, especially those directed against civilians and children in particular. It also expressed its utmost concern at the growing number of internally displaced persons in Colombia.

21. Ms. BUCK (Canada) said that the single most important issue was the collaboration between some members of the Colombian armed forces and the illegal paramilitaries. Her Government was also deeply concerned at the abuses committed by the illegal armed groups, notably kidnapping and the recruitment of children, and at the plight of human rights activists, union leaders and judges. She called upon the Government of Colombia to provide adequate funding to implement the national human rights strategy.

22. Her delegation also called on all parties to follow up on the recommendations of the Secretary-General's Representatives on internally displaced persons and for Children and Armed Conflict. The ongoing displacement of civilians - in some instances a deliberate military tactic - was a cause for serious concern and her delegation applauded and supported the efforts of the International Committee of the Red Cross (ICRC) to protect and assist those displaced.

23. The Government bore primary responsibility for the safety and well-being of its citizens, however, and it must demonstrate its commitment to the displaced persons by adopting a comprehensive approach, including implementation of Act No. 387 and of the policy of the Economic and Social Policy Council (CONPES).

24. Ms. SCHERER (Amnesty International) said that, despite significant moves in recent months to advance peace talks between the Colombian Government and the main armed opposition groups, the armed conflict continued to escalate. Its principal victims were the civilians living in areas disputed between government forces, paramilitary organizations and armed opposition groups. The Government had persistently failed to fulfil its commitments to dismantle paramilitary groups which, frequently operating with the tacit or active support of the Colombian armed forces, continued to operate with impunity throughout the country.

25. Both the Colombian armed forces and the armed opposition groups were responsible for serious and persistent violations of human rights and international humanitarian law, including indiscriminate attacks that caused significant civilian casualties. While the Government had taken some measures to improve their protection, human rights defenders continued to be the victims of harassment and attack. Peace activists, trade unionists and journalists had also been targeted. Despite the efforts of the Colombian civilian justice system, impunity for human rights violations remained the norm and high-ranking members of the armed forces continued to be routinely shielded from justice by the military courts.

26. The Government had consistently failed to implement recommendations by the United Nations thematic mechanisms and the High Commissioner for Human Rights and had rejected laws passed by Congress designed to bring Colombian domestic legislation into line with international human rights standards. The High Commissioner's Office in Colombia had played an increasingly important role since its establishment in 1997, and her organization welcomed the extension of its mandate to 2002. However, if the Office was to fulfil that mandate effectively, it needed to be significantly strengthened.

27. The scale and severity of the human rights and humanitarian crisis in Colombia had not been adequately addressed by the international community. She therefore called upon the Commission to adopt a resolution reiterating its concern at the deepening human rights crisis in that country, to urge the Colombian Government to take immediate steps to implement in full all United Nations recommendations, to welcome the renewal of the mandate of the High Commissioner's Office, to strengthen that Office by the appointment of sufficient experts to fulfil its mandate effectively and to request the High Commissioner to submit her report on Colombia to the General Assembly.

28. Ms. PARDO (Franciscans International), speaking also on behalf of the International Commission of Jurists, International Federation of Human Rights Leagues, World Organization against Torture, Robert F. Kennedy Memorial, the Service Peace and Justice in Latin America and the International Service for Human Rights, said that, during the past year, the socio-political violence in Colombia had claimed an average of 12 victims a day. Displaced persons still lacked effective care and the authorities did not guarantee their safety, resettlement or return. Since

mid-1996, some 36 human rights defenders had been murdered and at least 30 had been forced into exile. The paramilitary groups allegedly responsible for most of those acts were reported to have close links with the Colombian armed forces.

29. In 1999, the armed opposition groups Revolutionary Armed Forces of Colombia (FARC), National Liberation Army (ELN) and Patriotic Liberation Army (EPL) had frequently violated international humanitarian law, using weapons with indiscriminate effects and kidnapping and murdering civilians. The armed forces likewise continued to violate international law. Officials of the Attorney-General's Office investigating serious human rights violations had been repeatedly threatened and many had been forced to leave the country.

30. Confronted with military allegations that the Attorney-General's Office and the Procurator-General's Office had been infiltrated by guerrilla groups, the Government had remained silent. The Constitutional Court judgement of 1997, ordering that members of the military and the police charged with human rights violations should be tried in civil courts, had still not been implemented. The new Military Penal Code would not solve the problem of impunity, since it did not remove gross human rights violations from the jurisdiction of the military courts; indeed, the President had objected to recently enacted human rights legislation on the grounds that it would remove the serious offences in question from military jurisdiction. The "faceless judges" continued their work; the Government had merely renamed them "specialist judges".

31. She called for the mandate and powers of the High Commissioner's Office in Colombia to be strengthened and for the report on its operation to be transmitted to the General Assembly. She also called on the Commission to establish an additional monitoring mechanism in view of the persistence of the serious human rights situation in Colombia, the widespread impunity and the repeated failure to implement international recommendations.

32. Ms. UPRIMNY (Colombian Commission of Jurists) said that her organization was concerned by the failure of the Government of Colombia to cooperate with the international community or to implement any of the recommendations made over the past 10 years. Despite the recommendation that human rights violations should not be judged by military courts, the new Military Penal Code, adopted in June 1999, ignored both it and the 1997 Colombian Constitutional Court decision that human rights violations could not be subject to military jurisdiction. The Colombian Congress had, at long last, passed a law penalizing enforced disappearances but it had been rejected by the Government apparently because it was unwilling to have that crime tried by the ordinary courts.

33. In 1999, the number of deaths caused by political violence had risen from 10 to 12 persons per day. State agents' involvement in such deaths had been reduced to 5 per cent, guerrilla groups had been responsible for 22 per cent and the paramilitary groups were currently responsible for more than 70 per cent. As the High Commissioner for Human Rights said in her report (E/CN.4/2000/11), the last groups had the support, acquiescence or toleration of State officials and benefited from the lack of an effective response by the State. When, in 1999, the Government had dismissed three generals with clear links to the paramilitary, their cases had

been transferred to a military court, where they were assured of impunity. All parties to the conflict must commit themselves to respecting the human rights of non-combatants and sign a humanitarian agreement.

34. Peace must be built on a basis of respect for human rights but the search for peace in Colombia was not accompanied by a serious human rights policy. Many human rights defenders had been forced to leave the country for fear of their lives, while others had been assassinated. The Commission should therefore urge the Government of Colombia to cooperate, and implement the recommendations of the High Commissioner's Office in Colombia.

35. Ms. BIONDI (International Confederation of Free Trade Unions) said that her organization fully supported the statement by the representative of Franciscans International. The human rights situation in Colombia was deteriorating and included targeted violence against trade unionists. Of the thousands of cases of human rights violations against Colombian trade unionists that had been reported since 1987, only two had resulted in convictions. In the previous week five trade unionists had been murdered, and two others seriously injured. Trade unionists were clearly still being attacked, assassinated, threatened, displaced and kidnapped with impunity. The Commission must take a strong stand on the violation of trade union rights. The Guilty parties must be punished and the independence of the judiciary respected.

36. More than ten years previously, the Colombian national trade union centres had complained to the International Labour Organization (ILO) about continued violations of human and trade union rights. In 1998, the annual Conference had decided to examine the possibility of setting up a commission of inquiry. The Colombian Government had been trying at all costs to avoid that eventuality. Such a commission would not, however, seek to impose sanctions but to secure reform. It could help to support efforts to overcome the internal armed conflict and the numerous social problems in Colombia and she called upon the Commission to support the establishment of an ILO commission of inquiry.

37. Ms. BAUTISTA (Latin American Federation of Associations of Relatives of Disappeared Persons) said that her organization was seriously concerned at the progressive deterioration in the human rights situation in Colombia and, in particular, at the increase in enforced disappearances. It had for years been monitoring the situation, which it had frequently denounced to the Commission. The State agents and paramilitary groups which carried out those crimes enjoyed complete impunity, and the authorities had opposed a succession of bills to criminalize enforced disappearances, thus clearly demonstrating that they had no interest in seeing justice done.

38. While she welcomed the steps towards peace that had been taken and the international community's efforts to assist that process, peace should not be bought at all costs. The price must not include impunity for the atrocious crimes that had been committed. The voices of the victims must be heard, and both victims and social and human rights organizations must be actively involved in the reconstruction of a democratic society.

39. Ms. CHURCH (Christian Aid) said that the reports on Colombia demonstrated yet again how far the Government of that country had to go to meet its international obligations. The greatest problem appeared to be its comprehensive failure to implement repeated

recommendations. No action had been taken to combat and dismantle the paramilitary groups, whose collusion with the military was well documented. While the President's recent announcement that measures would be taken to remove all military personnel with links to paramilitary groups was a welcome one, it remained to be seen whether it was any more than empty words.

40. While her organization would always support a negotiated solution to the conflict, it was dismayed by the fact that human rights and humanitarian concerns appeared to have a low priority in the current peace negotiations. As the High Commissioner had said, a humanitarian accord, with international verification, must be the first priority, as a way of protecting civilians and enabling them to participate in the search for peace. If peace in Colombia was to have any chance of success, it must be built on respect for human rights and international humanitarian law.

41. Mr. NARVAEZ (American Association of Jurists) said that, in recent years, paramilitary groups had been increasingly responsible for human rights violations. The groups in question had been largely created by the State with a view to pursuing a policy of violence towards sectors of the population considered to be insurgent. While the dialogue inaugurated in January 1999 between the main parties to the conflict was an important step towards a peaceful negotiated solution, the military assistance afforded by the United States Government to the Colombian Government was counter-productive. It contravened the requirement that military assistance should not be provided to military groups implicated in human rights violations. It was a matter for great concern that the United States should be assisting the Colombian military without obliging it to improve its human rights record.

42. Ms. WESCHLER (Human Rights Watch) said that of the more than 400 massacres recorded in Colombia in 1999, the majority had been perpetrated by paramilitaries working hand in hand with the Colombian army, while guerrillas were implicated in others. The close ties between the Colombian army and paramilitary groups were well-documented. While the national police had been directly implicated in joint army-paramilitary actions and had sometimes organized paramilitaries and supplied them with information, it was important to note that human rights violations committed by police did not usually go unnoticed or unpunished. Since 1994, 11,400 police officers implicated in human rights abuses and other forms of criminal activity had been discharged and placed at the disposition of the courts for trial and punishment.

43. The Commission must demand that the Colombian army sever links at all levels to paramilitary groups and implement a comprehensive and public plan to capture and bring to justice paramilitary leaders and the military officers supporting them. The Government of Colombia must uphold the Constitutional Court ruling that crimes against humanity allegedly committed by military personnel be investigated and tried in civilian courts. Moreover, the Commission must urgently support the work of those Government officials and members of NGOs who defended human rights.

44. Ms. WOLFE (International Federation Terre des Hommes) said that children represented 41.5 per cent of the population of Colombia. Millions of them lived in abject poverty, were subject to abuse and violence, denied schooling and worked in high-risk sectors of the black economy. Of the 2 million displaced persons in Colombia, 70 per cent were minors.

The armed conflict had the most serious consequences for children in Colombia and she wished to draw the Commission's attention to the aforementioned human rights abuses, which were a particularly lamentable outcome of the more generalized situation of violence. The Government of Colombia not only continued to fail to implement the recommendations made by United Nations bodies and OHCHR, it was also making very little effort to implement the Convention on the Rights of the Child. Colombian children must be provided with the protection and education to which they were entitled.

45. Mr. REYES RODRIGUEZ (Colombia), speaking in exercise of the right of reply, said that there was no institutional relationship between the State and the self-defence groups. He referred the Commission to his earlier statement, in which he had given an account of the measures being adopted by his Government to deal with such groups.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2000/84-86; E/CN.4/2000/NGO/11, 16, 37, 39, 83, 100, 120 and 128; A/54/487 and Add.1; E/CN.4/Sub.2/1999/18-20; E/CN.4/Sub.2/AC.4/1999/4 and 6)

46. Ms. SOUS-CASTANEDO (Guatemala) said that Guatemala was a multi-ethnic, multicultural and multilingual country. In the past 15 years, it had made substantial progress towards peace and had signed important agreements that had transformed the country, resolving complex and long-standing problems and facilitating reconciliation. In order to achieve that success, her authorities had placed no limits on international inspection and verification.

47. The promulgation of the Political Constitution in 1985 had been a major landmark. It had introduced human rights institutions and created significant agents for social change, including the Fund for Indigenous Development. A cross-cultural bilingual educational system had been introduced and the establishment of a Mayan university had been envisaged. The Constitution had established the obligation of the State to provide special protection for the lands of cooperatives, communities or collectives, recognized the right of indigenous and other communities to continue to administer their traditional territories, and envisaged the possibility that the State might be responsible for providing indigenous communities with such land as was necessary for their development.

48. An agreement on the identity and rights of the indigenous peoples (the "Indigenous Accord") had been concluded as part of the peace agreement. That Accord made provision for the eradication of marginalization and discrimination through mechanisms to guarantee to indigenous peoples the full enjoyment of their cultural rights and to strengthen indigenous institutions. Pursuant to the Indigenous Accord, a Commission for Educational Reform had been established with responsibility for ensuring that the educational system reflected the multilingualism and multiculturalism of the country. Indigenous groups and the Government were represented on the Commission.

49. Under the terms of the Indigenous Accord, the Government had made a commitment to create an ombudsman for indigenous women, and, indeed, that post had recently been established.

50. Her delegation believed that the Commission should have a special rapporteur on the human rights and fundamental freedoms of indigenous peoples, and had prepared a draft resolution to that effect which she hoped would be supported by all States. It was in favour of the establishment of a permanent forum for indigenous people and supported the efforts of the Working Group on Indigenous Populations and the work on the draft United Nations declaration on the rights of indigenous peoples.

51. Mr. LORD (Canada) said that the draft resolutions it would be considering - one of which would authorize a further meeting of the working group on a draft United Nations declaration on the rights of indigenous peoples - gave the Commission the opportunity and responsibility to affirm its leading role in advancing the interests of indigenous peoples.

52. The working group's meetings had successfully built mutual confidence between the representatives of States and those of indigenous peoples. A genuine dialogue had taken place and it was encouraging that States had agreed to make additional efforts to work together to find a common understanding. The alternative texts for the cluster of draft articles 15-18 represented an important step forward. His delegation was, however, concerned that substantial portions of each session were taken up in reviewing past work and rebuilding the conditions necessary for making progress. If the goal of adopting a draft declaration by the end of the Decade was to be achieved, the pace of work must be quickened and the continuity strengthened. For that reason the draft resolution invited all interested parties to conduct broad, informal inter-sessional consultations with a view to facilitating progress. For its part, his Government would continue its consultative dialogue with aboriginal leaders and officials in Canada.

53. His delegation would also be a sponsor of the annual combined draft resolution on the Working Group on Indigenous Populations and the International Decade of the World's Indigenous People. The Working Group continued to play an important role in facilitating and encouraging dialogue among States, indigenous peoples and bodies of the United Nations system; in reviewing developments; and in addressing specific issues, such as the themes of the International Decade. He welcomed the fact that its eighteenth session would focus on the theme of indigenous children and youth, which would be preceded by a special workshop on indigenous children.

54. He hoped that States would support the Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Decade. His delegation was deeply appreciative of the eminent indigenous persons who sat as the Board of Trustees and advised the Coordinator for the Decade on the administration of the Funds. They were deeply committed to their often difficult task of deciding how best to use the limited funding available.

55. Over the 20-odd years since the Commission had taken on and maintained its leadership role within the United Nations system in addressing the aspirations and needs of indigenous peoples, it had created, first, the Working Group on Indigenous Populations and, later, the working group on a draft United Nations declaration on the rights of indigenous peoples. At its current session, the Commission had a historic opportunity to set another milestone by recommending that the Economic and Social Council should establish a permanent forum for indigenous people.

56. The contributions of the indigenous peoples' representatives, especially those from Canada, had been crucial to the successful outcome of the open-ended inter-sessional ad hoc working group. The proposed draft resolution on the matter reflected a broad consensus achieved within the working group. His delegation supported the proposals that the permanent forum should be a subsidiary body of the Economic and Social Council; that it should be made up of 16 members, with an equal number of representatives of States and indigenous peoples; that it should meet for 10 days each year; and that the selection of indigenous representatives should reflect indigenous values and views on geographic distribution and representativeness.

57. Mr. LIENLAF (Chile) said that, in accordance with the 1989 Nueva Imperial Pact, which had replaced an assimilationist approach with one based on multi-ethnic understanding, his Government fully supported the establishment of a permanent forum for indigenous people. His delegation was currently participating in the preparation of the draft resolution to that end.

58. Since 1990, successive Chilean Governments had been pushing ahead with a project to reform the Constitution, with a view to ensuring recognition for the indigenous peoples living within the national territory. The new Government had given top priority to the reform. It also hoped to secure the ratification of ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

59. Within four days of taking office, the current Government had convened a meeting of indigenous organizations and employers' organizations, together with representatives of the churches and public bodies, with a view to preparing an action plan laying the foundations for a new agreement between the State, society and the indigenous world. It had also decided to establish a commission of truth and historical dignity of the indigenous peoples.

60. A major problem for Chile's indigenous communities had been the loss of their lands, which had weakened their cultural and social roots. Under the Nueva Imperial Pact, the Government was to return the lands by means of an Indigenous Land and Water Resources Fund. The target of 100,000 hectares specified in the Pact had already been reached and, indeed, surpassed and the Government had set a new target of 150,000 hectares of indigenous land to be achieved in the first six years of the new millennium.

61. The Indigenous Development Fund had been established to finance special programmes aimed at the harmonious development of indigenous individuals, families and communities, on the basis of social equity, economic growth and environmental sustainability, and US$ 15 million had already been invested. Indigenous Development Areas had been established as a way of concentrating public investment in areas with a high proportion of indigenous residents and conducting community participation experiments in management and development. Public investment amounting to US$ 91 million had already been committed to the Areas for the period 1999-2002.

62. In the field of education and culture, progress had been made with the Indigenous Grants Programme, which provided grants at every level of education. The rise from 5,000 grants in 1994 to 18,000 in 2000 had made it possible to meet more of the demand for education among indigenous students.

63. Despite the efforts made to address the various problems facing Chile's indigenous peoples, tensions still existed. The important fact, however, was that there was a public policy of support for indigenous peoples and that the Government intended to continue working for improvements in the living conditions of the indigenous peoples through a policy of dialogue.

64. Mr. REYES RODRÍGUEZ (Colombia) said that the identity of Colombia's indigenous peoples was protected by the country's decentralized system, which gave autonomy to the various territories. Boundaries were set by the national Government, by agreement with indigenous representatives, and the indigenous peoples enjoyed collective and inalienable ownership of their reservations. Relations between the various entities were defined by law. The indigenous territories were governed by councils established and regulated in accordance with the usage of the communities concerned, whose powers included the implementation of the law on the use of their land. The Constitution stated that the exploitation of natural resources in the indigenous territories would be carried out without detriment to the cultural, social or economic integrity of the indigenous communities. In any decision regarding such exploitation, the Government would encourage the participation of representatives from the communities concerned.

65. In recent months, some national and foreign non-governmental organizations (NGOs) had been actively opposing legitimate prospecting for oil in Colombia, building their campaign around the indigenous U'wa community, to which the Government had previously given territorial rights over a wide area of land. The country was in recession and it had therefore become necessary to prospect for oil so as to avoid importing oil in the future. In so proceeding, the Government had fully respected constitutional and environmental law.

66. If the Samoré oil project proved feasible, the country would become self-sufficient in crude oil, and would receive Col$ 2 billion in social investment at the national level and Col$ 1.4 billion at the regional level, in royalties during the life of the project. The Samoré project was located outside the indigenous reservation and the prospecting terms would not affect U'wa rights. A participatory process had been developed to ensure that the prospecting and any exploitation of the Samoré project would not have a negative impact on the cultural, social and economic integrity of the U'wa community based in the area. The process, worked out over seven years of dialogue, had culminated in an agreement signed on 19 July 1999, between the Ministry of the Environment and the U'wa Senior Council, in which the Government fully accepted the recommendations of an independent study carried out by the Organization of American States (OAS) and the University of Harvard. In line with its recommendations, the Government had extended the U'wa lands from 60,000 to 220,000 hectares to serve the 4,500-strong community. The agreement fully incorporated the delimitation of the lands established by the U'wa Council, in line with a study carried out with assistance from a private academic institution.

67. Once the agreement had been signed, the Government had granted an exploration licence to the OXY Company; the terms of the licence obliged the company to protect water bodies and to maintain contact with the communities concerned. OXY had voluntarily declined to work in another part of the territory and had started its exploration work in the Gibraltar 1 well, which would affect an area of only 12 hectares situated 2 km from the U'wa lands.

68. It was not yet known whether oil existed in the area or, if so, whether the geological conditions were appropriate. If they were, OXY would require another licence. The Samoré project guaranteed environmental sustainability and the integrity of the indigenous culture. Its benefits for Colombia, its regions and communities, were undeniable and essential.

69. Mr. GALLEGOS CHIRIBOGA (Ecuador) welcomed the significant progress that had been made in the discussions on the composition and mandate of the permanent forum for indigenous people, although his delegation would have preferred even broader discussions, so that the scope of the forum and the distribution among the various indigenous populations of the world could be defined more precisely. If the forum was an organ of the Economic and Social Council, it would have the opportunity to cover the whole range of human rights and the economic, social and cultural factors that impinged on the life of indigenous populations. It would thus be a place where States and indigenous peoples could engage in dialogue on issues of mutual concern.

70. The remaining task for the open-ended inter-sessional working group was to work out procedures to ensure the forum's effectiveness. States with large indigenous populations had the obligation to promote their rights both nationally and internationally and to establish more effective standards. The establishment of a permanent forum would make it possible to further the common cause of protecting the human rights of millions of people.

71. The task of the open-ended inter-sessional working group on a draft United Nations declaration on the rights of indigenous peoples was no less difficult than that of its fellow working group. It faced the considerable challenge of formulating a text that would take into account the various legal systems and traditions and progress was inevitably slow. His delegation hoped that the pace of discussion could be speeded up and that it would result in a document enjoying universal acceptance.

72. Mr. GUILLEN BEKER (Peru) said that his Government was doing everything in its power to assist the indigenous peoples, which played a fundamental role in Peruvian society. At the national level it had established the Technical Secretariat for Indigenous Affairs within the Ministry for the Advancement of Women and Human Development as a first step towards improving the administrative structure in relation to indigenous peoples. Congress had also established a Committee for Indigenous Affairs, to assess the relevant bills, one of which was in course of preparation.

73. Peru was one of the few countries to have ratified ILO Convention No. 169, the most progressive international instrument for the protection of indigenous peoples' rights. In accordance with its commitments under the Convention, his Government had initiated consultations on preparing legislation to provide a system of protection for collective knowledge relating to biodiversity and on another proposal to regulate access to the genetic resources of the indigenous populations.

74. Progress had also been made at the international level, particularly within the Commission. In that connection, he welcomed the achievements of the working group on a permanent forum for indigenous people at its latest session, in reaching agreement on some central aspects of the initiative. While in favour of such a forum, his delegation had some doubts

about certain aspects on which it had not been possible to achieve full agreement, especially regarding the process of appointing or electing experts by the indigenous peoples. The indigenous peoples should participate fully in the appointment of such experts, while the establishment of the forum should reflect the diversity existing among the world's indigenous peoples. His delegation would give favourable consideration to any formula that could be submitted to the Economic and Social Council in the current year.

75. The working group on a draft United Nations declaration on the rights of indigenous peoples had also made substantial progress. Annex 1 of the working group's report (E/CN.4/2000/84) showed that delegations had come very close to agreement on four articles. The proceedings should, however, be speeded up and, at its next session, the working group should focus in detail on articles that had already been discussed and on which there were elements of agreement, rather than embark on entirely new articles. It would also be useful for Government delegations to consult informally before the next session on both the content of the draft declaration and the best way of bringing about the active participation of indigenous representatives.

76. Mr. AVILA (Mexico) said that the promotion and protection of the rights of indigenous peoples was an essential part of his Government's agenda. There were 10 million indigenous people in Mexico, speaking 62 languages and making up 10 per cent of the population. The democratic State could not function without them. The Government therefore made every effort to ensure the fulfilment of their rights. Only thus could the poverty, exclusion and marginalization from which Mexico's indigenous peoples had historically suffered be tackled.

77. It was a huge challenge, but huge efforts had also been made. Over the past decade, there had been a substantial shift in the relationship between the State, the rest of society and the indigenous peoples, not only in the recognition in the 1991 Constitution of the multicultural nature of the country but also the elimination of the paternalist approach; the accent being henceforth on enabling indigenous people to be agents of their own development.

78. In compliance with the San Andrés Accords, the Executive had in 1998 sent Congress a proposal for constitutional reform, recognizing the right to autonomy and self-determination for indigenous peoples, bilingual education, the use of communication media, the administration of justice based on traditional systems and participation in Government in accordance with their customs. It was for Congress to complete the process, but 18 of the 32 Mexican states - those with the largest indigenous populations - had already reformed their local constitutions, taking their lead from the Executive.

79. The fight against poverty was a central objective of the Government. It ran a special programme for education, health and nutrition that helped 900,000 indigenous families. Education was bilingual for all indigenous peoples. All the 4.2 million children in rural primary schools received free books and materials in their own languages. Moreover, 70 per cent of the country's 20,000 indigenous communities already possessed documentary proof of their ownership and rights. Substantial economic support was given to indigenous enterprises and producers of basic crops were paid in cash, enabling them to acquire materials and have some protection against price variations.

80. Another Government priority was to involve indigenous peoples in justice and the fight against impunity. In states with a high concentration of indigenous peoples, courts consisting of indigenous persons had been established to settle intercommunal conflicts on the basis of conciliation and reparation. The National Human Rights Commission, the National Indigenous Institute and the Attorney-General of the Republic all had special departments to ensure access by indigenous peoples to justice. The Institute also had 24 radio stations operated by indigenous people and reaching an audience of 4.5 million, dealing principally with human rights questions. Special agrarian courts had been established, as well as a National Agrarian Register, to protect and guarantee the various forms of landholding.

81. Violators of human rights, especially those of indigenous peoples, were prosecuted. After the tragic massacre in Acteal in December 1997, 102 people had been detained and 55 had been sentenced, 13 of them being members of municipalities or local civil servants.

82. In Chiapas, the Government continued to seek a worthy and just peace and to combat poverty and marginalization. In September 1999, it had publicly submitted to the National Liberation Zapatista Army (EZLN) its "one step more" proposal, but no reply had been received. Huge resources had been poured into combating poverty there over the past five years. Over US$ 6 million had been invested in health, education, housing and land distribution. Unfortunately, the conflict in Chiapas had polarized and divided some communities. In 1998, there had been 9,724 displaced persons, most of whom had settled in one area. Many had since returned to their communities. The Government was currently helping 7,200 displaced persons with health care, food and shelter.

83. At the international level, the Government had acceded to ILO Convention No. 169. At the regional level, machinery had been put in place to support the economic development of indigenous peoples. In 1999, Mexico had been the first country to deliver to the Inter-American Development Bank its quota for the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean. His delegation was chairing the OAS working group preparing an American declaration on indigenous peoples rights.

84. His delegation strongly supported the establishment of a permanent forum for indigenous people and called on all States to work for a speedy conclusion to the work on the elaboration of a draft declaration on the rights of indigenous peoples.

85. Mr. PLORUTTI (Argentina), stressing the importance of the International Decade of the World's Indigenous People, said that his delegation hoped that the draft declaration on the rights of indigenous peoples would soon be approved. Considerable progress had been made towards achieving a consensus on the subject, but crucial issues concerning the participation of indigenous representatives had yet to be resolved. His own delegation, like that of other Latin American countries, had been working to ensure that, whatever the method chosen, indigenous communities would be able to nominate their own candidates and be consulted regarding the membership of the forum. In view of the fact that the United Nations was an intergovernmental organization, delegations to the permanent forum should be comprised partly of government representatives and partly of freely elected indigenous representatives.

86. Argentina had an estimated 800,000 indigenous persons belonging to 17 different peoples and accounting for 1.5 per cent of the total population. The Government was committed to protecting indigenous rights, and had incorporated most of the principles of the 1985 Indigenous Policy and Aboriginal Communities Support Act into the constitutional reform process of 1994. The original Act guaranteed the protection and development of indigenous communities by means of their full participation in the social, economic and cultural life of the nation. The new legislation took account inter alia of the "ethnic and cultural pre-existence" of Argentinean indigenous peoples, their legal personality, their entitlement to land, their participation in the management of their natural resources, the importance of bilingual and intercultural education, and the preservation of their heritage.

87. In its annual report for 1999, the National Institute for Indigenous Affairs noted an increase in the number of scholarships awarded to indigenous persons, and progress in the regularization of land titles. It also reported progress in the review of legislation and welcomed the considerable national investment in institutional capacity-building and training for indigenous communities. A number of national indigenous programmes were being implemented in the fields of culture, health, housing and the environment. Numerous debates and seminars had also been organized with the participation of indigenous peoples and the national and local authorities. Such measures were a testimony to the Government's commitment to indigenous issues.

88. Mr. MICHELENA (Venezuela) said that indigenous issues were a priority for his Government, which had always stressed concrete action to promote the rights and well-being of indigenous Venezuelans and to ensure their participation in national decision-making. Authentic indigenous representatives had, for the first time in Venezuelan history, been directly involved in bringing domestic legislation into line with international standards. A chapter on the rights of indigenous peoples had been incorporated into the new Constitution, which had come into force in December 1999.

89. The new Constitution guaranteed indigenous people their rights to their ancestral and traditional lands, to prior consultation as to the use of the natural resources of those lands, and to education which took account of their social and cultural needs. It also guaranteed recognition of their traditional medicine, their right to political representation, their native languages, their traditional social and political institutions and their indigenous way of life in general. The Constitution recognized that Venezuelan society was multi-ethnic and guaranteed the universal and indivisible nature of human rights without discrimination of any kind.

90. His delegation was participating actively in the work on indigenous issues at all international levels, not least in the inter-sessional working groups. It was in favour of the prompt establishment of the permanent forum, on the understanding that it would be merely the first step towards according indigenous peoples the prominence they deserved. Above all, the participation of all indigenous peoples through their authentic representatives must be ensured.

91. Mr. MOSES (Grand Council of the Crees) said that the establishment of the Working Group on Indigenous Populations had, for the first time, accorded the indigenous peoples some recognition, but initially only as poorly understood "populations" and "minorities". It had taken 20 years more to muster support for the proposed permanent forum. Certain Member States

would no doubt raise the issue of cost and the dictum that no new United Nations entities should be established, but such considerations could not justify the continued exclusion of indigenous issues from the work of the United Nations.

92. The indigenous peoples had made a major contribution to the world. All the countries of the Western Hemisphere were situated on their lands; they had hybridized basic food staples, such as corn and potatoes, and their traditional knowledge - rarely acknowledged - formed the basis of much of the modern pharmaceutical industry.

93. Given that standard-setting had by no means been completed, and that the review of indigenous developments must be ongoing, the crucial work of the Working Group on Indigenous Populations should continue, at least until the permanent forum, once established, recommended some means of continuing its mandate.

94. Mr. MIOT (International Federation of Rural Adult Catholic Movements (FIMARC)) said that transnational pharmaceutical and food industries were covertly appropriating the natural resources and traditional knowledge of indigenous peoples by seeking to patent the genetic material of plants they had protected and selected over the centuries. According to intellectual property law, natural substances and processes could not be patented, only inventions. Genetic sequencing surely represented a discovery, rather than an invention.

95. At the international level, however, there was pressure on the World Trade Organization (WTO) to accept such patents, which would be tantamount to biologically plundering the South. Indigenous people were determined to fight for their rights and assert their collective rights to their knowledge. However, since national legislation tended to favour individual rights, they were faced with a difficult task.

96. His organization was strongly opposed to patents on any living material and wished to remind States of the importance of the ratification and incorporation into domestic legislation of the Convention on Biological Diversity. The World Intellectual Property Organization (WIPO) should protect the know-how and heritage of indigenous people and involve them in discussions and actions concerning them. The world's genetic heritage was humanity's common patrimony and could not be bought and sold as merchandise.

97. Ms. SPALDING (World Federation for Mental Health), drawing attention to the serious psychological implications of forced relocation on traditional peoples, said that the Commission should take urgent and proactive measures to further support the Dine'h people in their attempt to maintain physical and spiritual integrity on their lands. The cultural life and disciplines of societies and individuals was also crucial to their mental and physical well-being. Her organization wished to thank the Commission for its commitment to raising awareness of indigenous cultural rights.

98. Mr. ÖZDEN (Centre Europe - Tiers Monde (CETIM)), said that indigenous peoples were particularly vulnerable to human rights violations resulting from natural resource exploitation projects carried out by large transnational corporations. In Colombia, the U'wa people had, since time immemorial, lived in the north-east of the country near the border with Venezuela. Their ancestral territory was currently being threatened by oil prospecting under a licence

accorded to a United States corporation (Occidental Petroleum (OXY)) without prior consultation. The prospecting had already caused serious environmental degradation, including damage to water supplies, land and forest.

99. Also in Colombia, on the Sinú River, the life, culture and territorial integrity of the Embera Katio people were being threatened by the construction of the Urrá 1 hydroelectric dam. Not only had consultations with the people been insufficient, but persons critical of the project - including community leaders, advisers and scientists - had been murdered or received death threats. The Government had authorized the work of filling the reservoir to begin without any credible impact or environmental management study.

100. Financial institutions should accept responsibility for the impact of the projects they financed and corporations should be made liable for full compensation to the indigenous peoples affected. An international instrument to limit economic activities which undermined the culture, life and territories of indigenous peoples should be elaborated, perhaps by the Working Group on Transnational Corporations of the Sub-Commission. Moreover, it was the responsibility of States to ensure that such corporations complied strictly with human rights standards on their territory.

101. The Commission should speak out against large-scale projects on indigenous territories, make a clear statement with respect to the situation of the U'wa and Embera Katio peoples and the Government of Colombia, and call for both projects to be halted. The legal guarantees protecting the indigenous peoples of Colombia should be respected.

102. The CHAIRMAN said that the speaker had exhausted his allotted time.

103. Mr. SIMMONS (International Indian Treaty Council), speaking also on behalf of Indigenous World Association and the Society for Threatened Peoples, expressed appreciation for the frank dialogue on the draft declaration that had taken place within the working group. A growing number of States, re-examining their initial positions, had decided to support the unqualified use of the term "Indigenous Peoples" in the draft declaration. The few States which persisted in opposing that fundamental principle were preventing any real progress on the issue; they should reconsider their positions.

104. The method of selection of members of the permanent forum was a matter of deep concern. If it was not clarified and Governments appointed both the indigenous and State members, the forum would lack the necessary credibility.

105. His organization urged the Commission to renew its commitment to the adoption of the draft declaration and the successful establishment of the permanent forum, both of which were vital to peaceful coexistence and to reconciliation between the indigenous peoples and Governments.

106. Mr. WATCHMAN (International Indian Treaty Council) said that his people were being forcibly relocated by the United States Government on the pretext of a "Navajo-Hopi land dispute". Evictions were under way of the last remaining Dine'h elders and their families, who had always refused to sign away their rights to their ancestral homeland. The Government had also forbidden ceremonial use of the land, including traditional Dine'h burials. A special rapporteur should be appointed to examine the full extent of human rights violations in that and similar situations. It was clear that many Governments were not responsive to appeals by the international community and must be continually monitored on compliance with their international obligations.

The meeting rose at 1.05 p.m.